

MADISON COUNTY PLANNING

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Streamside Protection Steering Committee

Meeting Summary

Tuesday October 21, 2008

First Madison Valley Bank, Basement Meeting Room, Ennis, MT

Attendance:

Planning Staff: Jim Jarvis (staff planner), Karen Filipovich (facilitator)

Steering Committee: Kelly Galloup, Richard Lessner, Donna Jones, Gayle Schabarker, Pat Clancy, Chris Murphy, Amy Robinson, Jeff Laszlo, John East (alternate).

Public (13):

Eileen Walters

Laird Stabler

Tricia Stabler

Dennis Hourany

Susan Hourany

Carol East

Greg Morgan

Duane Thexton

David Bricker

Pat Goggins

Janet Endecott

Heather Anders

Jim Budelman

1. Welcome, Overview, and Introduction

The meeting was called to order at 6:30 p.m. by Karen Filipovich. Karen presented an overview of the agenda. Introductions were exchanged amongst committee members and the public.

2. Receive September 16, 2008 meeting summary and correspondence submitted since the last meeting

Jim Jarvis directed the committee's attention to a summary of the last meeting, copies of public comments received by the Planning Office since September 16, 2008, and two handouts prepared by planning staff and Karen Filipovich. The first handout summarized various aspects of the performance-based setback approach and proposed efforts to improve public participation. The second handout included several questions intended to encourage discussion about previously expressed concerns and identify possible priorities and solutions. The information packets also included a petition signed by approximately 120 Madison Valley and county residents. The petition was described as a "preliminary endorsement of the on-going hard work the Committee is engaged in to protect and preserve our priceless rivers, streams, and riparian areas" and a request that the committee, "...look at equitable, consistent protection" and "...study the scientific findings on setbacks, vegetative buffers and other protection tools for rivers and streams in the Madison Valley."

Karen Filipovich and Jim Jarvis gave an update on on-going efforts to fill the current vacancy on the committee with a new representative from the northern portion of the planning area. Jim described the concern that without such representation the appropriateness of the ordinance would likely be challenged at some later date. Jim Jarvis will continue to solicit interest in the position from names listed on the previously mentioned petition.

3. Performance-based Streamside Protection: Setting Priorities and Begin Work on Draft

Karen Filipovich asked the committee, based on the information presented over the past 8 months, which of the four originally proposed purposes for the ordinance were important: water quality

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protection, riparian habitat protection, floodplain control, and viewshed. The committee straw poll responses clearly indicated that protection of water quality and riparian habitat ranked highest, with floodplain and viewshed, lesser concerns. Recognition of private property rights was also stressed. In group discussion, protection of riparian vegetation was identified as key way to preserve water quality and habitat, while also addressing floodplain and viewshed concerns. Several members stressed the importance of relying on scientific data to guide the setback discussion and applying it in a reasonable and effective manner to the planning area. Jeff Laszlo suggested that while viewshed is a concern, it is too subjective from a private property rights perspective, and should be considered a secondary concern. Kelly Galloup suggested that viewshed wasn't enforceable and shouldn't be a consideration. Richard Lessner stressed the importance of protecting riparian habitat and the need for a "balancing act" approach to mitigate impacts to private property rights. Pat Clancy, Amy Robinson, and Jeff Laszlo concurred. Richard Lessner cautioned the committee about the cumulative impacts of streamside disturbances along smaller tributaries, i.e. removal of natural vegetation and the potential for erosion and channel migration due to high run-off events. Karen asked the committee how the proposed performance-based setback approach could be crafted to protect riparian habitat.

Jeff Laszlo suggested a very brief mission statement be created to clarify these concerns and guide committee review, e.g. "the following recommendations are based on discussions that have focused on preservation of riparian habitat and preventing the cumulative effects of stream degradation..."

Donna Jones suggested a purpose statement based on a quote from Governor Brian Schweitzer, Letter to Directors of the DEQ DNRC and FWP 3-8-06. "Development along rivers and streams that destroys protective riparian areas is possibly the single most urgent ecosystem threat facing Montana today. Not only do these waterways and riparian areas provide fish and wildlife habitat, they also provide jobs and recreation."

Jeff Laszlo suggested that based on an updated purpose statement, the committee should be able to review the originally proposed ordinance and eliminate language which does not support the new focus on riparian habitat protection.

Richard Lessner suggested that the mission statement and Section 6,7 and 8 of the ordinance be updated.

Greg Morgan suggested the committee refer to the Gallatin County "Small Tract Handbook for Best Management Practices" and the Big Hole River Conservation Development Standards for inspiration on how to update the proposed ordinance. The only major question remaining is how big of a setback is appropriate.

Jim Jarvis offered to re-write the draft ordinance based on the suggested purpose statements, a performance-based (PB) setback approach with a focus on preserving an undisturbed vegetative buffer. Jim asked the committee for specific recommendations regarding the size of the buffer zone and the criteria used to determine the secondary performance-based setback.

Richard Lessner referenced the performance-based common characteristics summary from last month's meeting as a good starting point for the re-write. He also inquired whether smaller tributaries should have smaller buffer zones. Jim agreed to present various approaches for committee consideration.

Jeff Laszlo suggested a 75 foot wide minimum buffer zone is appropriate with allowances for variances. Kelly Galloup suggested 50 feet from the ordinary highwater mark was adequate. Chris Murphy concurred with Kelly. The committee expressed general consensus on 50 feet.

Chris Murphy suggested the permit review process be streamlined as much as possible. Chris Murphy asked if smaller lots, e.g. 200 foot deep, would be given special consideration. Donna Jones asked if

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preference can be given for existing development patterns. Kelly Galloup asked how the vegetation types are classified. Jim responded that typically dominant riparian vegetation types are the focus.

Jim agreed to factor these concerns into specific criteria to guide the secondary performance-based setback.

Jeff Laszlo asked how compliance with this proposed permit program would be monitored. Jim suggested that lacking a formal building permit program, issuance of septic permit would be an appropriate trigger point. In addition, the county will have to embark on a major educational campaign in order to get the word out.

Duane Thexton suggested the setback criteria make exception for unique topographic features of the building site and low impact, environmentally-friendly building designs.

Pat Clancy referencing fisheries biology data for the Northern Rockies suggested a larger buffer zone setback, e.g. 100+ feet may be appropriate. Based on this scientific data, he would prefer a minimum setback larger than 50 feet.

Jeff Lazlo and Kelly Galloup stressed the importance of the proposed performance based setback criteria being compatible with overlying state and federal regulatory programs.

The committee expressed consensus, supporting an updated draft ordinance to be prepared for the next committee meeting in January 2009. Jim agreed to prepared and distribute the draft to the committee for review before the Christmas holiday.

4. Public Comment Period

A member of the audience expressed his disappointment regarding the proposed 50 foot minimum setback. Citing his experience over the past 20 years fishing the Madison River, he felt a 50 foot setback was too small and that development too close to the river significantly impacted the viewshed. Greg Morgan countered that the proposed ordinance's emphasis on water quality and habitat protection was step in the right direction and would fill a big hole in the current level of streamside protection. Kelly Galloup suggested that even with a larger setback for buildings, due to the wide open nature of the valley, the viewshed would still be impacted. Donna Jones reminded the audience that the subdivision regulations would still remain in place and required a 500 foot setback for new lots created along the Madison River.

Jeff Laszlo encouraged the County to consider providing financial incentives to property owners, i.e., tax abatement, to encourage larger setback.

Another audience member suggested that the ordinance allow for third party, professional input, i.e. consultants, to identify setback mitigation opportunities. Karen reminded the committee that they will need to thoroughly discuss and evaluate mitigation efforts as they apply to the ordinance.

5. Next Meeting Schedule

Citing scheduling conflict associated the holiday season, Karen proposed a January 6, 2009 meeting date. The committee expressed support for the date.

Meeting adjourned: 8:52 pm

The next committee meeting is scheduled for Tuesday January 6, 2009 at 6:30 p.m. in Ennis.